

CHAPTER 6

PERFORMANCE EVALUATION

6-1. Principles.

a. Accurate and timely performance evaluations support the USACE objective of continuously improving the quality of A-E services and products.

b. The performance of A-E firms shall be evaluated fairly and objectively. Ratings are ultimately the decision of the Government and are not subject to negotiation with A-E firms. However, overall ratings¹ of "marginal" and "unsatisfactory" may be rebutted by A-E firms in accordance with the procedures herein.

c. A-E firms shall be kept apprised of the quality of their work throughout contract performance and shall promptly be sent copies of completed performance evaluations.

6-2. Responsibilities.

a. The Chief of Engineering in each operating command is responsible for the A-E performance evaluation process in the command.

b. Area engineers and resident engineers (AE/RE) are responsible for preparing A-E evaluations after the completion of USACE-managed construction projects.

6-3. Regulatory Background. This pamphlet implements²:

¹ This pamphlet is based on the April 1999 edition of DD Form 2631, Performance Evaluation (Architect-Engineer), which replaced the November 1992 edition. The new overall ratings are "exceptional," "very good," "satisfactory," "marginal" and "unsatisfactory." The 1992 edition of the form had corresponding overall ratings of "excellent," "above average," "average," "below average" and "poor."

² FAR Subpart 42.15, and the supplements thereto, addresses recording and maintaining contractor performance information, but, by its terms, does not apply to A-E services.

a. FAR 36.604, which requires that the performance of A-E contractors be evaluated and that files of performance evaluations be maintained for use in selecting firms for A-E contracts,

b. DFARS 236.604, which requires a separate performance evaluation after completion of construction and specifies that all DoD agencies forward completed evaluations to the central automated database maintained by USACE (ACASS), and

c. EFARS 36.604, which amplifies certain requirements of the FAR and DFARS.

6-4. General Procedures.

a. Implementation. The Chief of Engineering will establish written procedures, including a tracking system, to ensure the timely preparation, approval and distribution of all required A-E evaluations in accordance with this pamphlet. A-E evaluations shall be scheduled events in the management plan for a project.

b. Contracts Requiring Performance Evaluation. Performance evaluations are required for all contracts for A-E services in excess of \$25,000, but may be prepared for lesser contracts (FAR 36.604 (a)). Design services provided under a design-build contract are not given an A-E performance evaluation and are not subject to this pamphlet. Instead, the quality of the design services in a design-build contract will be addressed in the remarks section on the construction performance evaluation form (DD Form 2626).

c. Preparation of Evaluations.

(1) A performance evaluation shall be prepared by the engineers, architects and other technical personnel who reviewed and accepted the A-E firm's work as recommended by FAR 36.604 (a)(1). Sufficient effort must be devoted to this function so that thorough and fair evaluations are completed in a timely manner.

(2) Performance evaluations (except marginal or unsatisfactory) shall be prepared, reviewed, approved and distributed within 60 days

of the designated milestones in paragraphs 6-7 and 6-8. Additional time will generally be required for evaluations with an overall rating of "marginal" or "unsatisfactory" if rebutted by the A-E firm (see paragraph 6-10).

d. Evaluation Form. Performance evaluations shall be prepared on DD Form 2631³ (DFARS 236.604(a)) in accordance with the instructions in Appendix V. The performance evaluation software provided by the Contractor Appraisal Information Center will be used instead of the actual form to facilitate the preparation and routing of evaluations, as well as the transmittal and entry into ACASS. A hard copy must be printed and signed by the rating and reviewing officials for inclusion in the contract file and for sending to the A-E firm.

e. Assignment of Overall Ratings. The overall rating is based on the ratings in the discipline and attribute matrices. While this is a matter of judgment, general guidance is given below to promote uniformity.

(1) "Exceptional." All or almost all of the significant disciplines and attributes are rated "exceptional." No discipline or attribute should be "marginal" or "unsatisfactory."

(2) "Very Good." A majority of the significant disciplines and attributes are rated "exceptional" or "very good." No significant discipline or attribute should be "marginal" or "unsatisfactory."

(3) "Satisfactory." No significant discipline or attribute should be "unsatisfactory." Quality of final work is acceptable in an overall sense, however, it may have been necessary to get the firm to correct some unacceptable work.

(4) "Marginal." One or two significant disciplines or attributes are rated "unsatisfactory," or all or almost disciplines or attributes are rated "marginal." An unusual amount of extra effort and follow-up on the part of the Government was

required in order to get an acceptable product.

(5) "Unsatisfactory." Several significant disciplines and attributes are rated "unsatisfactory." This rating is appropriate for a firm that does not produce acceptable work despite extensive effort by the Government. This rating is required for all contracts terminated for default.

f. Remarks. The remarks in Item 20 of the DD Form 2631 should support and be compatible with the overall rating. A rating of "marginal" or "unsatisfactory" must be fully explained in the remarks. Also, the remarks should not suggest that the firm really did "marginal" work when the overall rating is "satisfactory."

g. Safeguarding Evaluations. Completed A-E performance evaluations are classified as "For Official Use Only" in accordance with AR 25-55. All pages of the evaluation shall be stamped or marked at the top and bottom "For Official Use Only" in accordance with the provisions of AR 25-55, Section 2, Markings. A firm's evaluations will only be given to proper representatives of the firm, to representatives of a Federal agency having a legitimate need for this information, and to ACASS.

h. Contract Negotiation. The performance evaluation form and procedures shall be discussed with an A-E firm during contract negotiation (EFARS 36.604(a) and paragraph 4-7.b). The Government will clearly describe its performance expectations, and stress the importance of the performance evaluation in future selections. The PNM will indicate that this discussion took place.

i. A-E Office Location. Enter in Item 6 of the DD Form 2631 the A-E office location which had the lead role in performing the work, which may not be the office which signed the contract. The evaluation will not be useful or relevant in future selections if it does not reflect the actual performing office.

k. Responsible Command. When more than one command is involved in the execution of a project, the command having KO authority for administration of the A-E contract is responsible for preparation of the A-E performance evaluation. The responsibility for the A-E performance evaluation will be included in the overall management plan for the project (see ER 5-1-11).

³ The ACASS software presently conforms to the November 1992 edition of DD Form 2631. This software will continue to be used until it is updated to reflect the current edition of the form.

I. A-E Contracts Awarded for Installations.

(1) This chapter also applies to A-E contracts awarded by USACE for administration by Army installations or other activities. As required by paragraph 5-6.c, the USACE KO will issue instructions to the installation on the preparation of performance evaluations, including preparation of the A-E evaluation after completion of construction when the installation is responsible for managing the construction contract.

(2) If a person at the installation has COR authority for the A-E contract, this person may act as the rating official. Otherwise, the chief of the unit in the Directorate of Public Works or similar engineering office charged with the oversight responsibility for the A-E contract will act as the rating official. The reviewing official will be the Chief, or Assistant Chief, of Engineering of the supporting USACE district.

6-5. Monitoring Performance.

a. General. The quality of an A-E firm's products and services must be adequately documented throughout the performance of the contract and the firm kept apprised of the quality of its work (EFARS 36.604(a)). An A-E firm will be notified immediately upon recognition of marginal or unsatisfactory performance as outlined in paragraph 5-9.

b. Appraisals. Operating commands shall establish procedures to appraise the quality of each A-E submittal, using the discipline and attribute matrices on the DD Form 2631. The appraisals will be supplemented as appropriate with narrative that supports the rating and will assist the PM and COR in communications with the A-E on submittal quality. These appraisals will be made by each of the pertinent disciplines. It is particularly important to adequately document any area of unsatisfactory or exceptional performance. These appraisals constitute the basis for interim and final performance evaluations and shall be retained in the contract files.

6-6. Interim Evaluations.

a. General. An interim performance evaluation (FAR and EFARS 36.604(a)(3)) will be

prepared under the following conditions, in accordance with the procedures in paragraph 6.7.c:

(1) A cumulative, interim evaluation will be prepared at least annually for a task order or a FP or CR contract with a performance period anticipated to exceed 18 months (EFARS 36.604(S-102)).

(2) An interim evaluation will be prepared whenever a project is deferred for more than 3 months if a substantial portion of the work has been completed.

(3) An interim evaluation will be prepared when a firm's performance is "marginal" or "unsatisfactory" (EFARS 36.604(a)(3)) after reasonable steps have been taken by the Government to improve the firm's performance (see paragraph 5-9). An interim evaluation formally puts a firm on notice that its performance is inadequate in order to encourage improvement and to make the information on the firm's performance available to other contracting offices in a timely manner. An interim "marginal" or "unsatisfactory" evaluation provides a very strong basis for a final "marginal" or "unsatisfactory" evaluation (see paragraph 6-10) if a firm's performance does not improve.

(4) At any other appropriate time.

b. Approval and Distribution. Interim evaluations will be approved and distributed in accordance with paragraph 6-9. The basis for an interim "marginal" or "unsatisfactory" evaluation must be well documented. An interim "marginal" or "unsatisfactory" evaluation is subject to the rebuttal process in paragraph 6-10, and will not be distributed until the rebuttal process is completed (EFARS 36.604(a)(4)). Interim evaluations that have been transmitted to ACASS will be replaced by the final evaluation. Any interim "marginal" or "unsatisfactory" evaluations and a summary of any actions the firm took to remedy the deficiencies shall be recorded in Item 20, "Remarks" of the final evaluation.

6-7. Evaluation of A-E Performance after Completion of Design or Engineering Services.

a. General. A final evaluation will be prepared for each task order or FP or CR contract exceeding \$25,000 (EFARS 36.604(S-101)). For engineering services not directly related to design,

the evaluation shall be prepared after acceptance of the A-E products. For design services, the evaluation shall be prepared after the construction bid opening, provided the bid opening is scheduled to occur within 3 months of design completion. Otherwise, the evaluation will be prepared after completion of the design.

b. Preparation. The final performance evaluation will be based on the appraisals prepared by the technical reviewers and input received from the PM and customer, as well as any interim evaluations. The COR will assign the overall rating and sign the form as the rating official. A copy of the evaluation will be sent to the PM when the evaluation is forwarded for approval.

c. Contract Termination. A performance evaluation shall be prepared for a task order or a FP or CR contract terminated for any reason prior to completion of the work if the value of services completed at termination exceeds \$25,000 or if the contract was terminated for default.

6-8. Evaluation of A-E Performance after Completion of Construction.

a. General. An evaluation (referred to herein as the A-E construction evaluation) shall be prepared after substantial physical completion of each construction project based on an A-E design where the price of the A-E services (performed by task order or FP or CR contract) exceeds \$25,000 (EFARS 36.604(S-101)).

b. Preparation.

(1) During construction, the AE/RE is responsible for assessing the accuracy and completeness of the A-E firm's work and its responsiveness in resolving design problems that arise during construction. Sufficient documentation will be maintained by the AE/RE to support the A-E construction evaluation. Use of the discipline and attribute matrices on the DD Form 2631 can assist in documenting performance during construction and in communicating with the A-E firm on design problems. The AE/RE will coordinate the evaluation with the design COR and PM.

(2) The AE/RE will prepare the A-E construction evaluation, assign the overall rating, and sign the form as the rating official. The

evaluation, with any supporting documentation, will be forwarded through the Chief of Construction to the Engineering Division.

c. Review and Approval. Engineering Division will promptly review and approve an A-E construction evaluation after receipt from the Construction Division. No changes will be made in the A-E construction evaluation without the concurrence of the AE/RE, design COR and PM.

(1) Any significant differences in assessment between the design and construction evaluations will be resolved. This may require reevaluation of some aspects of the design by the personnel who reviewed the A-E firm's work during the design phase. Particular attention should be given to discipline or attribute ratings which could possibly reflect a misunderstanding of the A-E firm's responsibility. Any questions of this nature should be discussed with the AE/RE and the construction modification file reviewed, if necessary.

(2) As a consequence of the A-E construction evaluation, or other factors, Engineering Division may wish to change some of the ratings given for disciplines or attributes in the design evaluation. If so, the matrices on page 2 of the A-E construction evaluation, applying to design/engineering services, shall be completed and a statement made in Item 20, "Remarks," giving the reason for the change. If Engineering Division wishes to change the overall rating on the design evaluation, a revised evaluation will be prepared and transmitted to ACASS as specified in paragraph 6-9.c(1). A statement shall be made in Item 20, "Remarks," giving the reason(s) for the revision.

e. Review of A-E Liability. The COR will obtain the A-E liability information for Item 11 of the DD Form 2631 from the A-E Responsibility Coordinator (AERC). Refer to the instructions in Appendix V. An updated evaluation will be transmitted to ACASS as specified in paragraph 6-9.c(2) if there is a later change in the A-E liability information. Completion of an evaluation shall not be delayed because liability determinations have not been resolved.

6-9. Approval, Distribution and Revision of Evaluations.

a. Approval. The reviewing official for A-E

performance evaluations shall be the Chief or Assistant Chief of Engineering, unless a proposed "marginal" or "unsatisfactory" evaluation is rebutted (see paragraph 6-10). The reviewing official will review the performance evaluation and the supporting documentation to assure that the overall rating is justified. The date of the reviewing official's signature is the official date of the evaluation.

b. Distribution.

(1) The original signed copy of each interim and final performance evaluation shall be placed in the A-E contract file. Performance evaluations will be promptly transmitted electronically to ACASS, except when rebutted by the A-E firm in accordance with paragraph 6-10.

(2) A copy of each interim and final performance evaluation will be promptly sent to the A-E firm. The cover correspondence may be signed by the COR, except for "marginal" or "unsatisfactory" ratings, which shall be signed by the KO.

c. Revisions and Corrections.

(1) A performance evaluation may be changed by the reviewing official, or successor, upon presentation of adequate evidence. However, no changes shall be made in an A-E construction evaluation without concurrence of the AE/RE. A statement must be included in Item 20, "Remarks," describing the change and explaining why it was made.

(2) The revised evaluation, highlighted in colored marker to show the changes, will be sent to the ACASS, accompanied by a memorandum signed by the reviewing official. The revised evaluation will also be sent to the A-E firm and included in the A-E contract file. The Contractor Appraisal Information Center will make the requested changes.

(3) An evaluation may be updated to change factual information (such as Items 9, 10 or 11) or correct obvious clerical errors without the approval of the reviewing official. A copy of the evaluation will be marked-up to show the changes and sent to the ACASS. The updated or corrected evaluation will also be sent to the A-E firm and included in the

A-E contract file. The Contractor Appraisal Information Center will make the requested changes.

6-10. Marginal and Unsatisfactory Performance.

a. General. This section implements FAR and EFARS 36.604(a)(4).

b. Documentation. Documentation of marginal or unsatisfactory performance must be adequate to support the performance rating. It is very important to document the steps taken by the Government to get the A-E firm to improve performance (see paragraph 5-9), and the A-E firm's responses. Records should be made of all telephone conversations and meetings with the A-E firm concerning performance. Generally, a final "marginal" or "unsatisfactory evaluation" should have been preceded by an interim "marginal" or "unsatisfactory" evaluation.

c. Preparation and Notification.

(1) A performance evaluation will be prepared documenting the marginal or unsatisfactory performance, but not signed by the rating and reviewing officials. A summary of the deficiencies will be given in Item 20, "Remarks." The KO will send a letter to the A-E firm notifying it of the intended rating and enclosing the proposed evaluation and supporting documentation.

(2) The A-E firm will be advised in the letter that it has 30 days to rebut the rating. The A-E firm will be advised of its right to have comments entered in Item 20, "Remarks," of the evaluation form in accordance with FAR 36.604(a)(4). If the A-E firm does not respond in writing within the allotted time, the evaluation will be finalized and distributed.

d. Rebuttal Process.

(1) If an A-E firm rebuts a rating, a meeting will be scheduled with the Commander or Deputy Commander. The firm will be advised of the fact-finding nature of this meeting and provided with the evidence that will be submitted to the Commander for consideration. Every effort will be made to fully explore the major performance deficiencies in the meeting to enable the Commander to make a decision without the need for additional meetings or

evidence. The firm will be given sufficient time to prepare for this meeting. The meeting with the Commander will be held within 30 days of the firm's rebuttal letter, to the maximum extent possible.

(2) Following the meeting with the A-E firm, the Commander will decide whether to support or change the proposed rating. If the Commander decides to change the rating, the contract file will be documented to show the reason(s). If the firm has submitted any written comments, they will be added to Item 20, "Remarks." The evaluation will be signed by the rating official, and the Commander shall sign as the reviewing official.

(3) The KO will send a letter to the A-E firm advising of the Commander's decision and enclosing the signed evaluation. If the rating is "marginal," the letter will notify the firm that the decision is final. If the rating is "unsatisfactory," the firm will be advised that it can further rebut the evaluation to the MSC Commander, and, if so, that it must respond within 15 days of the date of receipt of the letter.

(4) If a firm rebuts an "unsatisfactory" rating, the MSC Commander will be briefed prior to the meeting with the A-E firm. The meeting between the MSC Commander and the A-E firm will be held within 30 days of the meeting with the

District Commander, to the maximum extent possible.

(5) The MSC Commander will decide whether to support or change the "unsatisfactory" rating assigned by the District Commander. If the MSC Commander decides not to change the rating, the contract file will be documented to show the reason(s). The KO will send a letter to the A-E firm advising of the MSC Commander's decision and that the "unsatisfactory" evaluation is final.

(6) If the MSC Commander decides that the "unsatisfactory" rating should be changed, the performance evaluation will be revised and signed by the rating official. The MSC Commander will sign as the reviewing official. The KO will send a letter to the A-E firm with a copy of the final revised evaluation.

(7) For Centers, the role of the District Commander will be filled by the Director of Engineering and Technical Services (DETS), or comparable position. Rebuttals of a "unsatisfactory" rating are made to the Center Commander.

(8) Performance evaluations that are rebutted by A-E firms will not be transmitted to ACASS until the above rebuttal process is completed (EFARS 36.604(a)(4)).